IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.103 OF 2004

Mr.D.M.Agarwal ... Petitioner.

vs

.

Union of India & others. ...Respondents

Mr.Ramesh Chhedda i/b. U.S.Samudrala, for Petitioner.

Mr.T.J.Pandian, for Respondents.

CORAM: D.K.DESHMUKH,J.

DATED: 28th June,2005

P.C.:-

1. By this petition, the petitioner challenges the Award made by the Arbitral Tribunal. The first ground on which the Award is challenged is that the Arbitral Tribunal consisted of three arbitrators and one of the Arbitrators has refused to sign the Award. The reason why third arbitrator has not signed the Award is disclosed in the Award itself. According to the learned Counsel, this amounts to withdrawal of 3rd arbitrator from the Arbitral Tribunal and

therefore, according to him, it will amount to termination of mandate of the Arbitrator in terms of Section 15 of the Arbitration and Conciliation Act,1996. The submission is not well founded. Perusal of the provision of Section 31 of the Act shows that an Award is required to be made in writing and has to be signed by all the members of Arbitral Tribunal. Sub-Section (2) of Section 31 lays down that if the Arbitral Tribunal consists of more than one member, then the signatures of the majority of all the members of the arbitral tribunal shall be sufficient for constituting an Award, if the reasons are disclosed why the remaining members of the Arbitral Tribunal have not signed the Award. In the present case, the third member/Arbitrator has disclosed the reason as to why he has not signed the Award, and therefore, in view of the provisions of Sub-section (2) of Section 31 of the Act, the Award made is a valid award.

2. The second ground on which the Award is challenged is that the Award has been delivered after 14 months after the proceedings were closed by the Arbitral Tribunal. The delay in delivering the Award by itself is not sufficient to set aside the Award. The learned Counsel for petitioner submitted that it is a principle of nature justice that an Award should be delivered within a reasonable time after the reference is closed. The learned counsel, however, is not in a position to point out any authority in support of the proposition that it is a principle of natural justice that an Award should be made by the Arbitrator within a reasonable time after the reference is closed. Though, it goes without saying that it is expected from the Arbitral Tribunal to declare their Award

within a reasonable time after concluding the hearing, but if for some reason delivery of Award takes time that itself does not vitiate the Award. I do not find any substance in the challenges raised to the Award. The petition therefore, has no substance. Therefore, the petition fails and is dismissed.

The petitioner is directed to pay Rs.10,000/- as and by way of cost of this petition to the respondents.